IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.27397 of 1997

Between:

Gonnuri Mangayyamma W/O Late Venkateswara Rao,
Namavaram Village, Rajanagaram Mandal,
E.G.District,

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep. by its secretary, Panchayat

Raj Department, Secretariat, Hyderabad.
2 The District Panchayat Officer,
E.D.District, Kakinada.
3 The Sarpanch, Grampanchayat, Namavaram,
Rajanagaram Mandal, E.G.District.
4 The District Collector,
E.G.District, Kakinada.
5 The Revenue Divisional Officer, Rajahmundry,
E.G.District.
6 The Mandal Revenue Officer,
Rajangaram Mandal, E.G.District.
7 Vadde Veerabhadra Rao, MLA, Kadiyam Constituency,
Narendrapuram Village, Rajanagaram Mandal,
E.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in forming the road through the lands of the petitioner covered under survey No.65/10 of Namavaram village, Rajanagaram Mandal, E.G. District as highly illegal and arbitrary and against the principles of natural justice and consequently direct the respondents not to lay roads

through the lands of the petitioners in Sy.No.65/10 of Namavaram Village, Rajanagaram Mandal, E.G.DT.

Counsel for the Petitioner: MR.BADANA.BHASKARA RAO

Counsel for the Respondent No.3: MR.N.SIVA REDDY

The Court made the following :

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 27397 of 1997

O r d e r:

Heard the learned counsel for the petitioner and the learned counsel for respondent No.3-District Panchayat Officer.

The learned counsel for the petitioner submitted that the petitioner is the absolute owner and possessor of the land in an extent of Ac.0-29 cents in Sy. No. 65/10 of Namavaram village, Rajanagaram Mandal, East Godavari District, having inherited the same from her ancestors. He submitted that the ownership and possession of the petitioner over the land is evident from the fact that respondent No.5 had issued Pattadar Pass Book, and the name of the petitioner is also recorded in the Adangal issued by the competent authority. While the petitioner is in possession and enjoyment of the land, the learned counsel for the petitioner submits that respondent Nos. 2 to 6 at the instance of respondent No.7, the local M.L.A., who is inimical to the petitioner, sought to lay a road through the land in question without acquiring the same under the provisions of the Land Acquisition Act, 1894 and without paying any compensation. She, therefore, filed this writ petition, and prayed that the respondents be directed not to lay the road in the land of the petitioner.

Respondent No.3 filed counter. The learned Standing Counsel appearing on his behalf denied the contention of the petitioner that she is the absolute owner and possessor of the land in an extent of Ac.0-29 cents in Sy. No. 65/10 of Namavaram village, and contended that the said land is inclusive of cart track and footpath, measuring 14 to 16 links wide and 120 to 130 yards long, and this is being used by all the villagers since time immemorial. He submitted that the petitioner's late husband earlier filed a suit in O.S. No. 373 of 1989 on the file of the Principal District

Munsif, Rajahmundry, against the Sarpanch and four others, for perpetual injunction restraining them from interfering with his possession and enjoyment of the said land, and though initially temporary injunction was granted, after his death, as no steps were taken to bring his legal representatives on record, the suit was dismissed as abated. He submitted that after the dismissal of the suit, when the Gram Panchayat sought to lay a road for the benefit and convenience of the general public, the petitioner with a view to grab the land, has filed writ petition, and obtained interim injunction without disclosing the fact that the suit filed by her husband for the very same relief, was dismissed.

Admittedly, the suit filed by the petitioner's husband for the very same relief, which is prayed for in this writ petition, was dismissed as abated as no steps were taken for bringing his legal representatives on record. Thereafter, when the Gram Panchayat sought to lay a road in the land, the petitioner filed this writ petition and obtained interim order. However, this Court subsequently vacated the interim order. Be that as it may, though the petitioner claims that the entire land in question belongs to her, the same is disputed by the respondents contending that it includes public cart track and that it is being used by the villagers since time memorial. Whether the land in question, in fact, belongs to the petitioner in whole, or is inclusive of a public cart track belonging to the Gram Panchayat, or whether it is being used by the petitioner exclusively for her benefit or is being used by the villagers, being disputed questions of fact, cannot be gone into in a writ proceeding under Article 226 of the Constitution of India. At any rate, the suit filed by the husband of the petitioner seeking injunction having been dismissed, I see no reason to grant any relief as prayed for by the petitioner in this writ petition.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 21st April, 2005.

KSR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Panchayat

Raj Department, Government of Andhra Pradesh, Secretariat,

Hyderabad.
2 The District Panchayat Officer,
E.D.District, Kakinada.
3 The Sarpanch, Grampanchayat, Namavaram,
Rajanagaram Mandal, E.G.District.
4 The District Collector,
E.G.District, Kakinada.
5 The Revenue Divisional Officer, Rajahmundry,
E.G.District.
6 The Mandal Revenue Officer,
Rajangaram Mandal, E.G.District.
7 Two CD copies

8 1 CC to MR.BHASKARA RAO